



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/375,767	08/17/1999	DAVID P. SCHNEIDER	DPS*1	5564

7590

09/02/2003

DAVID P SCHNEIDER  
4 WOODSIDE DR EAST  
APALACHIN, NY 13732

EXAMINER
----------

LEVY, NEIL S

ART UNIT	PAPER NUMBER
----------	--------------

1616

DATE MAILED: 09/02/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

87

Application No. 375767

Applicant(s) Schneider

Examiner M. C. Cery

Group Art Unit 1616

18

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 5/27/03
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 46-70 is/are pending in the application.
- Of the above claim(s) 58-70 is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 46-57 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☒ Claim(s) 46-70 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Receipt is acknowledged of amendment of 5/27/03. Regarding drawings, note that no time extensions are permitted after allowance, so applicant would want to move quickly on corrections at that time. Applicant is further apprised TO SAY invokes a response to PTO, and would not be desired here, by applicant. More appropriately, the arguments or response section, or even as perhaps may be desired with the now removed commentary on open sea tests, as a separate declaration. Examiner is not requesting, rejecting or instructing of applicant, but only pointing out considerations a pro se may not have considered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Newly submitted claims 58-70 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: these reiterate the subject matter of original 12-24, withdrawn under traverse, (Paper #3) directed to containess.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 58-70 stand withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claims 46-57 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As claimed examiner fails to find where support for a "slow melting" and "shape", (presumably meaning an object, rather than a characteristic of is found in the specification. The invention is seen as to critically require a binder and sealant; these should be claimed, as it would otherwise be beyond one of ordinary skill to achieve an unidentified characteristic configuration of slow melting unquantified as to time, SLS.

Further, it is not clear hours the melting or under what conditions, melting is a Part of the conglomerate.

Claims 46-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what is intending by characteristic configuration, and the indefinite slow melting. It is unclear what the Significance of "original mixture" in claim 47 is.

Claims 46-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Gladfelter et al 5234615.

The rejection of record is maintained; as new claims are rewritten rejected claims 1-11.

The rewritten claims do not require an intimate, or other contact with any coating.

Claims 46-49, 51, 52, 54-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider - 4917280.

The rejection of record is maintained; as new claims are rewritten rejected claims 1-11.

The "Newly invented shapes" as applicant argues, are not claimed – all that is claimed of the conglomerate, is a molded, hardened shape. The slow melting characteristic configuration is given no patentable weight, as this feature is not sufficiently supported by the claim language, or identifiable by examiner in the specification to differentiate over any other molded hardened shape comprising 1/3-2/3 SLS. If there is some functionality that results in melting under specified conditions, it (they) are not claimed, and /or would appear to constitute a method, not a composition. Schneider provides the compositions. Pellets of binders and coated (col. 2, last #); The SLS is 1/3-2/3 the balance (col. 3, top), instant claim 46 permits of O sodium sulfate.

Claim 48 is at line 66, col. 2, and 49 at col. 3, lines 18-21.

The water-soluble coating is white glue (col. 2, bottom, col. 3, line 17-20). The claim 56 sealant is the epoxy-coated conglomerate (col. 4, lines 23-26).

Applicant's arguments filed on 5/27/03 have been fully considered but they are not persuasive. Applicant's arguments, to extent persuasive, have resulted in withdrawal of some rejections. However, examiner questions where support lies for the new language, as applicant had not 50 identified support in the specification, examiner finds no claim recites both the coating and binder, and such a claim specific to the polyurethane, and another to the wire, would be outside of the Schneider reference.

This application contains claims 58-70 drawn to an invention nonelected with traverse in Paper No. 3. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 1616

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy/LR  
August 25, 2003

A handwritten signature in black ink, appearing to read "Neil S. Levy". The signature is written in a cursive, flowing style.

**NEIL S. LEVY**  
**PRIMARY EXAMINER**